



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 745

[EPA-HQ-OPPT-2010-0173; FRL-9385-6]

RIN 2070-AJ56

Lead; Renovation, Repair, and Painting Program for Public and Commercial Buildings; Notice of Public Meeting and Reopening of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public meeting and reopening of comment period.

SUMMARY: In 2010, EPA issued an advance notice of proposed rulemaking (ANPRM) concerning renovation, repair, and painting activities in public and commercial buildings. EPA is in the process of determining whether these activities create lead-based paint hazards, and, for those that do, developing certification, training, and work practice requirements as directed by the Toxic Substances Control Act (TSCA). This document announces a public meeting on June 26, 2013, and reopens the comment period for the December 31, 2012 **Federal Register** document to allow for additional data and other information to be submitted by the public and interested stakeholders.

DATES: The public meeting will be held on June 26, 2013, from 8:30 a.m. to 12:30 p.m. Requests to participate in the meeting must be received on or before *[insert date 21 days after date of publication in the Federal Register]*.

To request accommodation of a disability, please contact the technical person listed under **FOR FURTHER INFORMATION CONTACT**, preferably at least 10 days prior to the meeting, to give EPA as much time as possible to process your request.

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Comments must be received on or before [*insert date 60 days after date of publication in the **Federal Register***]. For additional information on timeframes for submission of comments, see Unit II. of the **SUPPLEMENTARY INFORMATION**.

ADDRESSES: The meeting will be held at the Environmental Protection Agency, Room 1153, EPA East Bldg., 1200 Pennsylvania Ave., NW., Washington, DC 20460.

Requests to participate in the meeting, identified by docket identification (ID) number EPA-HQ-OPPT-2010-0173, must be submitted to the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

Submit your comments, identified by docket ID number EPA-HQ-OPPT-2010-0173, by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

- *Mail:* Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001.

- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at <http://www.epa.gov/dockets/contacts.html>.

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at <http://www.epa.gov/dockets>.

FOR FURTHER INFORMATION CONTACT: *For technical information contact:*

Hans Scheifele, National Program Chemicals Division (7404T), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (202) 564-3122; email address: *scheifele.hans@epa.gov*.

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554-1404; email address: *TSCA-Hotline@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This document is directed to the public in general. However, you may be potentially affected by this action if you manage or perform renovations, repairs, or painting activities on the exterior or interior of public buildings or commercial buildings. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Other types of entities not listed may also be affected. Potentially affected entities may include:

- Building construction (NAICS code 236), e.g., commercial building construction, industrial building construction, commercial and institutional building construction, building finishing contractors, drywall and insulation contractors, painting and wall covering contractors, finish carpentry contractors, other building finishing contractors.

- Specialty trade contractors (NAICS code 238), e.g., plumbing, heating, and air-conditioning contractors; painting and wall covering contractors; electrical contractors; finish carpentry contractors; drywall and insulation contractors; siding contractors; tile and terrazzo contractors; glass and glazing contractors.

- Real estate (NAICS code 531), e.g., lessors of non-residential buildings and dwellings, non-residential property managers.

- Other general government support (NAICS code 921), e.g., general services departments, public property management services, government.

If you have any questions regarding the applicability of this action to a particular entity, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Copies of this Document and Other Related Information?

The docket for this action, identified by docket ID number EPA-HQ-OPPT-2010-0173, is available at <http://www.regulations.gov> or at the Office of Pollution Prevention and Toxics Docket (OPPT Docket), Environmental Protection Agency Docket Center (EPA/DC), EPA West Bldg., Rm. 3334, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the OPPT Docket is (202) 566-0280. Please review the visitor instructions and additional information about the docket available at <http://www.epa.gov/dockets>.

C. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through

regulations.gov or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. Tips for preparing your comments. When submitting comments, remember to:

i. Identify this document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. Follow the detailed instructions as provided under

ADDRESSES.

iii. Respond to specific questions posed by the Agency.

iv. Describe any assumptions and provide any technical information and/or data that you used or that would substantiate your concern.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced by the Agency and others.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified in this document.

II. Background

Title IV of TSCA, 15 U.S.C. 2681 *et seq.*, was enacted to assist the Federal Government in reducing lead exposures, particularly those resulting from lead-based paint. Section 402(c)(3) of TSCA specifically requires EPA to revise its Lead-based Paint Activities Regulations (Ref. 1), promulgated under TSCA section 402(a), to apply to those renovation and remodeling activities in target housing, public buildings constructed before 1978, or commercial buildings that create lead-based paint hazards. In April 2008, EPA issued the final Lead Renovation, Repair, and Painting (RRP) Rule under TSCA section 402(c)(3) (Ref. 2). The RRP Rule covers renovation, repair, and painting activities in target housing, which is most pre-1978 housing, and child-occupied facilities, defined in the rule as a subset of public and commercial buildings in which young children spend a significant amount of time.

Shortly after the RRP Rule was published, several lawsuits were filed challenging the rule, asserting, among other things, that EPA violated TSCA section 402(c)(3) by failing to address renovation activities in public and commercial buildings. These lawsuits (brought by environmental and children's health advocacy groups as well as a homebuilders association) were consolidated in the Circuit Court of Appeals for the District of Columbia Circuit. EPA engaged in collective settlement negotiations with all the parties and on August 24, 2009, EPA entered into an agreement with environmental and children's health advocacy groups in settlement of their lawsuits (Ref. 3). Shortly thereafter, the homebuilders association voluntarily dismissed its challenge to the rule. As part of this settlement agreement, EPA agreed to commence rulemaking to address renovations in public and commercial buildings, other than child-occupied facilities, to

the extent such renovations create lead-based paint hazards. As an initial step, EPA issued an ANPRM in the **Federal Register** on renovations in public and commercial buildings on May 6, 2010 (Ref. 4).

The settlement agreement has been amended and modified several times primarily to extend deadlines in the agreement, with the most recent amendment having been entered into by the parties on September 7, 2012. Under the terms of the amended settlement agreement, the date by which EPA has agreed to either sign a proposed rule covering renovation, repair, and painting activities in public and commercial buildings, or determine that these activities do not create lead-based paint hazards, is July 1, 2015. If EPA publishes a proposed rule in the **Federal Register**, EPA agrees to take final action on or before the date 18 months after the proposed rule has published.

In addition, EPA agreed to hold a public meeting on or before July 31, 2013, and offer an opportunity for stakeholders and other interested members of the public to provide data and other information that EPA may use in making its regulatory determinations. On December 31, 2012, EPA announced its intention to hold a public meeting on public and commercial building renovations and opened a comment period to offer interested stakeholders another opportunity to provide information and data that EPA could use to make regulatory decisions in this area (Ref. 5). EPA specifically requested information on the following:

1. The manufacture, sale, and uses of lead-based paint after 1978.
2. The use of lead-based paint on public and commercial buildings.
3. The frequency and extent of renovations of public and commercial buildings.
4. Work practices used to renovate public and commercial buildings.

5. Dust generation and transportation from exterior and interior renovations of public and commercial buildings.

With this document, EPA is announcing that the public meeting will be held on June 26, 2013, from 8:30 a.m. to 12:30 p.m. at the location provided under **ADDRESSES**. EPA has developed a discussion guide for the meeting that includes a description of the information received during the comment period earlier this year. The discussion guide has been placed in the docket for this action, docket ID number EPA-HQ-OPPT-2010-0173, and is available on EPA's website at <http://www.epa.gov/lead/rrp/index.html>. The discussion guide can also be obtained from the National Lead Information Center by calling 1-800-424-LEAD (5323) or from the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

EPA is also reopening the comment period for the December 31, 2012 **Federal Register** document (Ref. 5) to allow interested parties to submit additional relevant information and data before the public meeting, although EPA is not planning to update the discussion guide to reflect any information submitted at this time. The reopened comment period will stay open through the public meeting on June 26, 2013, and continue to remain open until *[insert date 60 days after date of publication in the Federal Register]* to accommodate written follow-up comments that participants or the general public wish to submit after the public meeting. Comments will be accepted regardless of whether the submitter participates in the public meeting.

III. References

As indicated under **ADDRESSES**, a docket has been established for this document under docket ID number EPA-HQ-OPPT-2010-0173. The following is a list of

the documents that are specifically referenced in this document. The docket includes these documents and other information including documents that are referenced within the documents that are included in the docket, even if the referenced document is not physically located in the docket. For assistance in locating these other documents, please consult the technical person listed under **FOR FURTHER INFORMATION**

CONTACT.

1. EPA. Lead; Requirements for Lead-Based Paint Activities in Target Housing and Child-Occupied Facilities; Final Rule. **Federal Register** (61 FR 45778, August 29, 1996) (FRL-5389-9).

2. EPA. Lead; Renovation, Repair, and Painting Program; Final Rule. **Federal Register** (73 FR 21692, April 22, 2008) (FRL-8355-7).

3. EPA. Sierra Club, etc. Settlement, as amended and modified (2009, 2011, and 2012).

4. EPA. Lead; Renovation, Repair, and Painting Program for Public and Commercial Buildings; Advance Notice of Proposed Rulemaking. **Federal Register** (75 FR 24848, May 6, 2010) (FRL-8823-6).

5. EPA. Lead; Renovation, Repair, and Painting Program for Public and Commercial Buildings; Request for Information and Advance Notice of Public Meeting. **Federal Register** (77 FR 76996, December 31, 2012) (FRL-9373-7).

List of Subjects in 40 CFR Part 745

Environmental protection, Buildings and facilities, Business and industry, Lead-based paint, Hazardous substances, Public and commercial buildings, Occupational safety and health, Renovation, Repair, and Painting Program (RRP), Safety.

Dated: May 6, 2013.

James Jones,

Acting Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

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